

### **REMARKS**

The above amendment is made in response to the Office action mailed May 30, 2008. The Examiner's reconsideration is respectfully requested in view of the above amendment and the following remarks.

Claims 1 and 5 have been amended to more clearly define the subject matter of the claimed invention. No new matter has been introduced by this amendment.

Claims 1, 3-5, 7 and 8 are pending the present application.

### **Claim Rejections Under 35 U.S.C. § 102**

Claim 1 stands rejected under 35 U.S.C. § 102(b) as being anticipated by Fujimori (Japanese Patent No. 6-165047).

To anticipate a claim under 35 U.S.C. § 102, a single source must contain all of the elements of the claim. *Lewmar Marine Inc. v. Barient, Inc.*, 827 F.2d 744, 747, 3 U.S.P.Q.2d 1766, 1768 (Fed. Cir. 1987), *cert. denied*, 484 U.S. 1007 (1988). “[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. V. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Moreover, “[t]he identical invention must be shown in as complete detail as is contained in the ...claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Applicant has amended Claim 1 to more clearly define the subject matter of the claimed invention. This amendment is fully supported by the specification originally filed, i.e., by the second paragraph on page 7 and the bridging paragraph on pages 7 and 8 of this application.

The amended Claim 1 includes, *inter alia*, the following limitation:

the movement value and the gain control signal are generated by using the output signals  
of the first A/D converter

As above, the claimed invention includes *the movement value and the gain control signal being generated by using the output signals of the first A/D converter*. That is, as shown in Fig. 3 of this application, the image data processor 24 generates a movement value and a gain control signal in response to output signal of the first A/D converter 23. Further, the shutter control signal is generated in response to output signal from the second A/D converter 25. Here, Applicant notes that the output signal from the first A/D converter 23 has been amplified at the variable gain amplifier 22. In contrast, the output signal from the second A/D converter has not been amplified by the variable gain amplifier 22, but comes directly from the image sensor 21.

Fujimori is directed to a video camera circuit. In Fujimori, however, as shown in Fig. 1 and paragraphs 26 and 46 thereof, the system controller 26 generates a shutter speed and a variable gain for the AGC 3 in response to a motion vector and a luminance level, respectively. In contrast, in the claimed invention, a movement value and a gain control signal are generated by using the output signals of the first A/D converter.

Furthermore, in Fujimori, the motion vector and luminance level are generated from the motion vector sensing device 8 and the luminance level detecting circuitry 9 respectively, which are connected directly to the second A/D converter 7. It is submitted that the second A/D converter 7 be distinguished from the first A/D converter 4. That is, the first A/C converter receives an amplified data from a variable gain amplifier (in the claimed invention) or a gain control circuitry (in Fujimori). In contrast, the second A/D converter receives data directly from an image sensor (in the claimed invention) or a CCD (in Fujimori).

Thus, Applicant submits that Fujimori does not teach or suggest *the movement value and the gain control signal being generated by using the output signals of the first A/D converter*, as recited in the amended Claim 1.

It is therefore submitted that Fujimori does not anticipate the claimed invention by failing to disclose or suggest all the elements and limitations in the amended Claim 1.

Applicant respectfully requests the Examiner to review these submissions and withdraw the rejection on Claim 1 under 35 U.S.C. § 102.

**Claim Rejections Under 35 U.S.C. §103**

Claim 5 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Fujimori, in view of Matsushima (U.S. Patent Application Publication No. 2003/0016299).

Claim 3 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Fujimori, in view of Shiga (U.S. Patent Application Publication No. 2005/0062874).

Claim 7 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Fujimori, in view of Matsushima, and further in view of Shiga.

Claim 4 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Fujimori, in view of Nagata (U.S. Patent No. 6,366,288).

Claim 8 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Fujimori, in view of Matsushima, and further in view of Nagata (U.S. Patent No. 6,366,228).

In order for an obviousness rejection to be proper, the Examiner must meet the burden of establishing that all elements of the invention are disclosed in the prior art; that the prior art relied upon, coupled with knowledge generally available in the art at the time of the invention, must contain some suggestion or incentive that would have motivated the skilled artisan to modify a reference or combined references; and that the proposed modification of the prior art must have had a reasonable expectation of success, determined from the vantage point of the skilled artisan at the time the invention was made. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988); *In re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970); *Amgen v. Chugai Pharmaceuticals Co.*, 927 U.S.P.Q.2d, 1016, 1023 (Fed. Cir. 1996). See MPEP 2143.

Establishing a prima facie case of obviousness requires that all elements of the invention be disclosed in the prior art. *In re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970). Further, even

assuming that all elements of an invention are disclosed in the prior art, an Examiner cannot establish obviousness by locating references that describe various aspects of a patent applicant's invention without also providing evidence of the motivating force which would have impelled one skilled in the art to do what the patent applicant has done. *Ex parte Levengood*, 28 U.S.P.Q. 1300 (Bd. Pat. App. Int. 1993). The references, when viewed by themselves and not in retrospect, must suggest the invention. *In re Skill*, 187 U.S.P.Q. 481 (C.C.P.A. 1975).

In response, Applicant has amended Claim 5 to more clearly define the subject matter of the claimed invention. This amendment is fully supported by the specification as originally filed.

Claims 3 and 4 are dependent directly from Claim 1. Claim 5 is independent and Claims 7 and 8 are dependent directly from Claim 5.

#### Regarding Claims 3 and 4

As discussed above in connection with 102 rejection, the amended Claim 1 includes *the movement value and the gain control signal being generated by using the output signals of the first A/D converter*, but Fujimori fails to teach or suggest these features of Claim 1.

Shiga is directed to a digital camera with reduced shutter lag and improved exposure accuracy. Nagata is directed to a selecting circuit to be used for selecting CMOS inverters. However, none of Shiga and Nagata, either alone or in combination with Fujimori, teaches or suggests *the movement value and the gain control signal being generated by using the output signals of the first A/D converter*, as recited in Claim 1.

It is therefore submitted that Fujimori, Shiga and Nagata, either alone or in combination, fail to teach or suggest the subject matter claimed in amended Claim 1, and thus *no suggestion or motivation* exists in the cited references. Accordingly, *prime facie* obviousness does not exist regarding the subject matter claimed in Claim 1 with respect to the cited references. Applicant respectfully submits that Claim 1 is now allowable over the cited references. Claims 3 and 4 are also believed to be allowable, by virtue of their direct dependency from Claim 1.

Regarding Claims 5, 7 and 8

The amended Claim 5 includes, *inter alia*, the following limitation:

the movement value, the gain control signal and the offset control signal are generated by using the output signals of the first A/D converter

The claimed invention includes *the movement value, the gain control signal and the offset control signal being generated by using the output signals of the first A/D converter*. Thus, the above discussions in connection with Claim 1 apply to the amended Claim 5 in similar manners.

That is, as discussed above, Fujimori, Shiga and Nagata fail to teach or suggest at least *the movement value and the gain control signal being generated by using the output signals of the first A/D converter*. Matsushima is directed to an image processing apparatus, but does not teach or disclose at least *the movement value and the gain control signal being generated by using the output signals of the first A/D converter*, as recited in Claim 5.

It is therefore submitted that Fujimori, Matsushima, Shiga and Nagata, either alone or in combination, fail to teach or suggest the subject matter claimed in amended Claim 5, and thus *no suggestion or motivation* exists in the cited references. Accordingly, *prime facie* obviousness does not exist regarding the subject matter claimed in Claim 5 with respect to the cited references. Applicant respectfully submits that Claim 5 is now allowable over the cited references. Claims 7 and 8 are also believed to be allowable, by virtue of their direct dependency from Claim 5.

Applicant respectfully requests the Examiner to consider these submissions and withdraw the rejection on Claims 3-5, 7 and 8 under 35 U.S.C. §103(a).

**Conclusion**

In view of the foregoing, it is respectfully submitted that the instant application is in condition for allowance. Reconsideration and subsequent allowance of this application are courteously requested.

If there are any charges due with respect to this Amendment or otherwise, please charge them to Deposit Account No. 06-1130 maintained by Applicant's attorneys.

The Examiner is invited to contact Applicant's Attorneys at the below-listed telephone number with any questions or comments regarding this Response or otherwise concerning the present application.

Respectfully submitted,

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